

**APPROVED**

**STATE ADVISORY COUNCIL ON THE  
EDUCATION OF CHILDREN WITH DISABILITIES**

**May 18, 2007**

**Carmel Educational Service Center  
Indianapolis, IN**

**ADVISORY COUNCIL MEMBERS PRESENT:**

B. Marra, D. Schmidt, G. Bates, R. Burden, D. Downer, C. Endres, K. Farrell, B. Henson, R. Kirby, B. Kirk, M. Johnson, K. Mears, J. Nally, M. Ramos, S. Tilden, and T. Wyatt.

**ADVISORY COUNCIL MEMBERS NOT PRESENT:**

S. Beasley, D. Geeslin, J. Hammond, C. H. Hansen, B. Lewis, C. Shearer, J. Swaim, and J. Swiss.

**DEPARTMENT OF EDUCATION (DEL) STAFF PRESENT:**

B. Alyea, P. Ash, K. Bassett, N. Brahm, S. Cochran, S. Knoth, and B. Reynolds.

**GUESTS:**

Larry Bass, Special Education Director, Evansville Vanderburgh School Corporation and Dr. Mary Ann Dewan, Special Education Director, MSD Wayne Township, presenting on behalf of the Rule19 Committee.

**VISITORS:**

Loui Lord Nelson (RAISE, Inc.); Mary Jo Germani (ISHA/BSU); Margaret A. Jones (Parent); Jennifer Akers (Family Voices); Rylin Rodgers (Parent); and Amy Duell (Parent).

**INTERPRETERS:**

Kellyeanne Norrod

## **MEETING**

D. Schmidt opened the meeting at 8:45 a.m.

D. Schmidt reminded members and visitors to sign in. He also reminded Council to take copies of comments received regarding the rewrite of Article 7.

Thelma Wyatt, a new member of the Council, introduced herself to the Council. The Council members introduced themselves to Ms. Wyatt.

(Note: K. Farrell served as chair of the Council after the lunch break because D. Schmidt had to leave for personal reasons.)

## **MINUTES**

The minutes from the May 4, 2007 meeting were approved with no amendments.

## **BUSINESS**

B. Marra confirmed that Ball State Virtual Cooperative would be present at the June 1, 2007 meeting to discuss: (1) the three 21<sup>st</sup> Century Charter Schools from the GEO Foundation that wish to exit the cooperative; and (2) three new charter schools that would like to become part of the cooperative.

## **ARTICLE 7 COMMENTS FROM THE PUBLIC**

No comments were made.

## **ARTICLE 7 DISCUSSION**

### **Discussion**

B. Marra stated that the agenda was re-arranged to move Rule 21 (Early Childhood) to the first item on the agenda.

## **RULE 21 PROGRAM PLANNING AND EVALUATION**

511 IAC 7-36-45: Early childhood

B. Marra explained the rule and its changes. He discussed a study regarding the cost of serving a preschool student. The majority of preschool students are served 12.5 hours per week, and the average cost for serving these students is \$13,518. (The average cost for serving students aged 6 thru 22 is \$11,101.) The bulk of the preschool costs - \$9000 – are for transportation and personnel. Personnel costs for students aged 6 thru 22 averages \$5,979, whereas personnel costs for preschool students averages \$6,065. Transportation costs average \$3,108 for preschool students and \$609 for students aged 6 thru 22.

The state generates \$2,750 in state and local funds per preschool child. However, these funds are not distributed in a per child flat rate as is the case for APC funding for students aged 6 thru 22. There is also Part B, § 619 funds for preschool students, however these funds are not distributed on a per pupil basis. On average, preschool students generate approximately \$4,300 in state, local, and federal funds.

B. Marra discussed proposed changes to the language regarding case loads and 12.5 hours of service. He would like the CCC to decide how many hours of service the student needs, as opposed to each student receiving 12.5 hours of services, regardless of their level of need.

B. Kirk asked for clarification on the determination of student/teacher ratio. B. Marra stated that under the proposed language, there would be no case load cap; a parent could file a complaint if a teacher was not able to serve the number of students in the classroom. K. Farrell stated that she likes that the language that focuses on individual child needs. The process still affords families, as well as service providers, due process rights should disagreements arise. K. Farrell added that because of the number of service providers entering the classroom, and because of high absenteeism, there are times when there are more adults in a classroom than children.

B. Kirk stated that parents should not have to monitor caseloads via due process. B. Marra stated that while some of the burden is placed on the parent, administrators would also have to monitor the child's educational needs. B. Kirk said that sometimes budget issues would take precedent over the child's needs. B. Marra agreed that this is a concern, but trust schools to make the right decision. C. Endres stated that teachers could report to administrators if they did not feel that they were able to handle a case load. S. Tilden said that as a parent and an employee at the Civil Rights Commission, he would like to know what other states are doing about preschool student/teacher ratio.

S. Cochran, the Division's Education Consultant for Early Childhood Services, spoke to the Council about caseload/class size recommendations. She noted that there are guidelines for school-age children regarding number of days and number of hours per day that a student must receive educational services. Her concern is that there are no similar guidelines for preschool students. She explained that the current 12.5 hours was based on the number of hours provided in half day kindergarten programs. S. Cochran explained caseload requirements for other preschool programs (e.g., Head Start and licensed day care programs). Her concern is that these programs have caseload requirements, but Article 7 will not have a caseload requirement. S. Cochran offered proposed language to address early childhood case loads. She noted that she has surveyed other states' requirements, and they do not offer flexibility for caseloads.

B. Kirk noted that new teachers might not complain about high case loads. D. Schmidt concurred, and noted that even teachers who have been in the field for a long time are hesitant to file complaints. R. Kirby stated that the proposed

language is loose, whereas S. Cochran's proposal is easier to implement. K. Farrell stated that she supports the language as written, but agrees with R. Kirby that families that are being introduced to the system would be overwhelmed. B. Marra stated that this is where due process and complaints would come into play. C. Endres asked how preschool programs are monitored, and S. Cochran stated that such programs are reviewed when a hearing or complaint is filed. B. Marra stated that in some cases, the Division will send out the monitoring group. K. Farrell asked if there were other ways to monitor this area. B. Marra stated that other indicators could be added to the CIMS report. M. Johnson asked how many complaints and hearings have been filed in the 3-5 age range. K. Bassett stated that she will research this question and return with information.

D. Schmidt asked for motion on proposals made to the rule. Discussion ensued with regard to student/teacher ratio and 12.5 hours a week.

K. Farrell motioned that language at 511 IAC 7-36-45 be accepted as written. M. Johnson seconded.

S. Tilden asked if there will or is a method to track the number of students who receive more than 12.5 hours per week. B. Marra stated that at this time, there is not a tracking system to measure this. R. Burden stated his concern that the only way for a parent to address their concerns are through mediation or due process.

K. Farrell called for the vote.

10 Approved; 3 Opposed; 1 Abstention.

Motion carried.

## **RULE 30 DUE PROCESS PROCEDURES**

B. Marra explained that the changes in the mark-up were discussed during the last meeting.

511 IAC 7-45-3: Due process hearing requests.

At section 3(b)(4), C. Endres asked why the language was added to the mark-up. N. Brahm stated that a committee suggested this language ("such as: (A) relevant dates; (B) individuals involved; and (C) other facts relevant to the dispute. J. Nally motioned to leave language as it was written previously in 511 IAC 7-30-3(a) and add the suggestions in (b)(4)(A), (B), (C). R. Burden seconded.

12 Approved; 0 Opposed; 0 Abstained.

Motion carried.

511 IAC 7-45-4: Sufficiency of request for a due process hearing

B. Kirk asked whether this language applies to both parties. N. Brahm affirmed that this was true. B. Kirk expressed the complexity of the language. N. Brahm stated that it is complex, but is verbatim from the federal regulations.

J. Nally motioned to accept language as presented. G. Bates seconded.

11 Approved; 0 Opposed; 1 Abstention.

Motion carried.

511 IAC 7-45-5: Responding to the request for a due process hearing

Review of section (5)(b), B. Kirk asked about prior written notice. N. Brahm stated that after a decision has been made by a case conference committee, and before the changes are implemented, you will receive notice as to the changes that were agreed upon in the CCC. N. Brahm suggested changing the term “prior written notice” because people get this confused with notice of a case conference committee meeting.

J. Nally motioned to accept language with change to the term “prior written notice.” S. Tilden seconded

12 Approved; 0 Opposed; 0 Abstained.

Motion carried.

511 IAC 7-45-6: Resolution meeting

Review of section 6(a): R. Burden asked if there has been instances where the parent and the public agency could not agree on who would attend the resolution session. K. Bassett stated that it ultimately would be the IHO decision.

Review of section 6(b): J. Nally asked if the following was correct: if the parent requests due process, the school has to hold a resolution meeting, but if the school requests due process, it does not have to hold a resolution meeting. B. Marra concurred.

Review of section 6(d): B. Kirk stated that it seemed redundant to have both mediation and resolution. N. Brahm said that both parties have to agree to go to mediation. However, the school must hold a resolution session even if the parent refuses to go to mediation.

Review section 6(f), B. Kirk asked about the timeline. N. Brahm explained the timeline.

Review of section 6(g): discussion ensued about what would happen if a parent refused to go to a resolution meeting, and the school refused to waive the resolution session. N. Brahm explained that a public agency could move to dismiss if a parent refused to attend a resolution session.

Review of section 6(k): B. Kirk asked this: if there is a resolution session, do you have to go to mediation? N. Brahm stated that parents have a choice. N. Brahm explained that states have the option of allowing resolution agreements to be enforced via the complaint process. N. Brahm stated that she could add subsection (j) to the section if the Council so moved.

R. Burden motioned to accept the language as written with amendments discussed. Seconded by G. Bates.

12 Approved; 0 Opposed; 0 Abstained.

Motion carried.

## **RULE 19 PRIVATE SCHOOLS OR FACILITIES**

Mr. Larry Bass, Dr. Mary Ann Dewan and K. Mears, who represent the Rule 19 committee, made a presentation to the Council regarding proposed language to amending Rule 19.

Dr. Dewan spoke about the changes in IDEIA. B. Marra asked about dual evaluations. Dr. Dewan indicated that they are proposing that districts accept evaluations completed by other districts. K. Farrell asked about dual evaluations being done simultaneously. Dr. Dewan noted that the law prohibits LEAs from sharing educational records of parentally placed nonpublic school students without parent consent.

K. Mears spoke about consultation meetings and due process. K. Farrell asked how many consultation meetings there should be. K. Mears stated that it could be more than one meeting. K. Farrell asked for clarification as to who you report your complaints. K. Mears said that you submit it to the non-public schools. J. Nally asked where the teacher of record comes from. Dr. Dewan said that the teacher of record is employed by the LEA, not the nonpublic school. The teacher at the non-public school would be the teacher of service. Discussion ensued with regard to FAPE and non-public schools.

L. Bass spoke about Part B fund requirements, proportionate share calculations, proportionate share for students aged 3 thru 5, child find costs, services to nonpublic school students, and contracting with nonpublic school employees.

K. Farrell commended the committee's efforts.

511 IAC 7-19-1: Special education for students in private schools

K. Mears stated that consultation as a service is the biggest issue for non-public schools. There are some LEAs who write that a student will receive consultation services, but the only thing that happens is that the teacher of record calls the nonpublic school to check on the student's grades.

J. Nally motioned to approve 511 IAC 7-19-1 language as written. G. Bates seconded.

10 Approved; 1 Opposed; 0 Abstained.

Motion carried.

511 IAC 7-19-2: Child-find

S. Tilden motioned to approve 511 IAC 7-34-2 as written. R. Kirby seconded.

11 Approved; 0 Opposed; 0 Abstained.

Motion Carried.

511 IAC 7-34-3 Educational evaluations for parentally placed non-public school students attending non-public schools outside the school corporation of legal settlement.

R. Burden asked about parent consent and non-public schools. N. Brahm explained that the parent has the choice as to whether to share the information regarding an evaluation. Discussion ensued regarding changing the language. B. Marra suggested that the language read "in order to transfer educational records to the public agency the parent must..."

N. Brahm stated that she will make the same changes to subsection (h).

M. Johnson motioned to approve the language with amendments to 511 IAC 7-34-3. J. Nally seconded.

12 Approved; 0 Opposed; 0 Abstained.

Motion carried.

511 IAC 7-34-4 Consultation with nonpublic school representatives and representatives of parents.

R. Burden asked how the representatives of the parents will be identified and involved in the school consultation process. K. Farrell described how she would go about doing so within her district. N. Brahm stated that she will research this issue.

**Public Comment**

No comments were made.

**OTHER BUSINESS**

K. Farrell noted that at the next meeting the SAC will begin at 511 IAC 7-45-7.

B. Marra asked that the Council be prepared to vote on the 1-tier vs. 2-tier due process system at the next meeting.

**Meeting adjourned at 2:55 p.m.**